

15 November 2012

Mr Rob Wilson MP
House of Commons
London
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By email and post

Dear Mr Wilson

***Newsnight*, BBC2, 2 November 2012 and *This Morning*, ITV1, 8 November 2012**

Thank you for your letters to Ed Richards, dated 8 and 9 November 2012, concerning the above programmes.

Mr Richards has passed your letters to me as the Director of Standards who has responsibility for the team within Ofcom that sets and enforces the rules within the Broadcasting Code ("the Code").

I understand from your letters that you seek Ofcom's confirmation that it will investigate whether:

- ITV was in breach of Section Seven of the Code by failing to provide an opportunity to respond to the individuals whose names were disclosed by Philip Schofield in connection with allegations of child abuse made in *This Morning*; and,
- The BBC was in breach of Section Seven of the Code by failing to provide the individual against whom allegations of child abuse were made in the *Newsnight* programme an appropriate and timely opportunity to respond to the allegations before the programme was broadcast.

I can confirm that Ofcom considers that both the *Newsnight* and *This Morning* programmes raise issues warranting investigation in relation to:

- 1) the application of generally accepted standards by ITV and the BBC; and,
- 2) the application of standards to prevent unfair treatment to an individual, and unwarranted infringements of privacy.

Ofcom has general duties under section 3 of the Communications Act 2003 ("the 2003 Act") to (among other things) secure the application, in the case of all television and radio services, of:

- 1) standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services (Section 3(2)(e) of the 2003 Act); and
- 2) standards that provide adequate protection to members of the public and to all other persons from both (i) unfair treatment in programmes included in such services; and (ii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services (Section 3(2)(f) of the 2003 Act).

Therefore, Ofcom has begun investigations into whether the BBC and ITV maintained appropriate standards and ensured that these programmes complied with Rules 2.1, 7.1 and 8.1 (and the relevant "Practices to be followed") of the Code.

You also queried whether the current wording of Section Seven of the Code creates a potential loophole, in relation to innuendo and social media, which broadcasters can use to avoid the fairness requirements of the Code. We believe that Ofcom is able to investigate and properly address the issues raised by the broadcast of these programmes and the resulting speculation on social media and do not consider that there is a potential loophole of the manner you describe. However, I would be happy to discuss this issue with you if that would be helpful.

Thank you for raising these matters with Ofcom. Given the public interest in your original letters to Ofcom, we have placed a copy of this response on our website.

Yours sincerely



Tony Close